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**PART 2A OF FORM ADV: FIRM BROCHURE**

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**Dated: July 10, 2015**

**This brochure provides information about the qualifications and business practices of Fifth Street CLO Management LLC. If you have any questions about the contents of this brochure, please contact us at (203) 681-3600 or [legal@fifthstreetfinance.com](mailto:legal@fifthstreetfinance.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the “SEC”) or by any state securities authority.**

**Additional information about Fifth Street CLO Management LLC is available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

**Being a “registered investment adviser” or describing ourselves as being “registered” does not imply a certain level of skill or training.**

**THIS BROCHURE DOES NOT CONSTITUTE AN OFFER TO SELL OR THE  
SOLICITATION OF AN OFFER TO BUY ANY SECURITY.**

**Item 2 MATERIAL CHANGES**

This is Fifth Street CLO Management LLC's initial registration with the U.S. Securities and Exchange Commission ("SEC"), and does not currently have any material changes to report.

A summary of any material changes to this and subsequent Brochures will be made available to you within 120 days of the close of our business' fiscal year. We may also provide you with additional updates or other disclosure information at other times during the year in the event of any material changes to our business.

You may request the most recent version of this brochure, free of charge, by contacting us at (203) 681-3600 or [legal@fifthstreetfinance.com](mailto:legal@fifthstreetfinance.com). You may also obtain a copy by going to the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

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#### **Item 4      ADVISORY BUSINESS**

Fifth Street CLO Management LLC (“Fifth Street”) is a Delaware Limited Liability Company formed on June 10, 2015, and is an investment advisory and management business. Fifth Street was founded by Leonard M. Tannenbaum and is wholly-owned by Fifth Street Holdings L.P. (“Fifth Street Holdings”). Fifth Street Holdings was formed on June 27, 2014 by Mr. Tannenbaum and another principal of Fifth Street Asset Management Inc., (“FSAM”), as a Delaware Limited Partnership. FSC CT II, Inc., (“FSC”) is the Limited Partner and FSAM is General Partner of Fifth Street Holdings. FSAM was incorporated on May 8, 2014, as an alternative asset manager and is publically traded on the NASDAQ. FSC is wholly owned by Mr. Tannenbaum.

Fifth Street is registering with the U.S. Securities and Exchange Commission (“SEC”) on the basis that it is a related adviser under Rule 203A-2(b). Fifth Street is under common control with Fifth Street Management LLC (“Fifth Street Management”), an SEC registered investment adviser located in the same principal office and place of business as Fifth Street.

Fifth Street currently does not have any clients or regulatory assets under management (“RAUM”). Fifth Street anticipates it will provide investment advice to private funds. Fifth Street will make all investment decisions on behalf of clients, including, without limitation, identifying, reviewing and selecting investment opportunities for each client.

Currently, Fifth Street Management serves as collateral manager to two private funds, Fifth Street Senior Loan Fund I, LLC (“FSSLF I”) and Fifth Street Loan Fund II, LLC, which will become the predecessor to Fifth Street SLF II, Ltd. (“FSSLF II”, and together with FSSLF I, the “FSSLF Entities”). Following registration with the SEC, Fifth Street anticipates it will be approved as collateral manager to the FSSLF entities. Fifth Street anticipates that the same Fifth Street Management advisory personnel will continue to service the FSSLF Entities.

Currently, the investment objective of the FSSLF Entities is to generate leveraged returns through an investment strategy focused on the acquisition, directly or indirectly through subsidiaries, of a portfolio of senior, secured term loan debt (including broadly syndicated loans, first lien term loans, second lien loans and to a lesser extent delayed draw term loans and revolving loans) of middle market companies. The acquired portfolios of loan debt currently provide eligible collateral for securitization financing, which the FSSLF Entities employ to enhance the size of investment portfolios and magnify returns generated from such portfolios.

Portfolio investments in loans are subject to certain criteria and restrictions with respect to the loans and the underlying obligors. In particular, Fifth Street may not invest in a loan of which Fifth Street or an affiliate is the obligor. Currently, Fifth Street does not anticipate the investment objective of the FSSLF Entities to materially change following being named collateral manager.

There can be no assurance that any of the FSSLF Entities will achieve their respective investment objectives, and investment results may vary substantially. Fifth Street currently does anticipate upon SEC registration that it will provide investment advisory or management services to clients other than the FSSLF Entities.

Please see Items 8 (Methods of Analysis, Investment Strategies and Risk of Loss), 10 (Other Financial Industry Activities and Affiliations) and 14 (Client Referrals and Other Compensation).

## **Item 5 FEES AND COMPENSATION**

**Fifth Street anticipates that the below information will reflect the fees and other compensation that Fifth Street will receive upon approval of the collateral management agreement with the FSSLF Entities.**

### Management Fee

*FSSLF I.* Fifth Street receives a quarterly management fee, calculated and payable in arrears pursuant to a “waterfall” structure. Under this “waterfall” structure, Fifth Street is generally entitled to receive a senior collateral management fee and a subordinate collateral management fee, each at an annualized rate of 0.25% and in each case to the extent there are sufficient funds available for distribution at the applicable level in the hierarchy. Fifth Street may enter into side letter agreements with one or more investors pursuant to which Fifth Street may pay such holders a portion of its management fee. The management fee is currently paid by FSSLF I pursuant to the “waterfall” contained in the collateral management agreement between Fifth Street and FSSLF I.

*FSSLF II.* Fifth Street receives a quarterly management fee, calculated and payable in arrears pursuant to a “waterfall” structure. Under this “waterfall” structure, Fifth Street is generally entitled to receive a senior collateral management fee at an annualized rate of 0.25% and a subordinate collateral management fee at an annualized rate of 0.175%, in each case to the extent there are sufficient funds available for distribution at the applicable level in the hierarchy. The management fee is currently paid by FSSLF II pursuant to the “waterfall” contained in the collateral management agreement between Fifth Street and FSSLF II.

If Fifth Street ceases to be the collateral manager to the FSSLF Entities during a quarter, it will be entitled to any accrued but unpaid management fees through the date of its removal. Fifth Street may waive or reduce all or a portion of the management fee attributable to any investor in the FSSLF Entities.

### Incentive Fee

*FSSLF I.* Pursuant to the collateral management agreement between the FSSLF I and Fifth Street, Fifth Street is entitled to receive an incentive fee pursuant to the “waterfall” structure described above. Under the “waterfall” structure, Fifth Street is generally entitled to receive a collateral manager incentive fee in an amount equal to 20%, payable only after investors in the equity tranche have realized an internal rate of return of 13%, of any remaining interest

proceeds and principal proceeds available for distribution at the applicable level in the hierarchy. The collateral manager incentive fee is generally payable quarterly as of each payment date on which interest proceeds and/or principal proceeds are distributed. If Fifth Street ceases to be the collateral manager to the FSSLF I during a quarter, it will be entitled to any accrued but unpaid collateral manager incentive fees through the date of its removal.

*FSSLF II.* Pursuant to the collateral management agreement between the FSSLF II and Fifth Street, Fifth Street is entitled to receive an incentive fee pursuant to the “waterfall” structure described above. Under the “waterfall” structure, Fifth Street is generally entitled to receive a collateral manager incentive fee in an amount equal to 20%, payable only after investors in the equity tranche have realized an internal rate of return of 12%, of any remaining interest proceeds and principal proceeds available for distribution at the applicable level in the hierarchy. The collateral manager incentive fee is generally payable quarterly as of each payment date on which interest proceeds and/or principal proceeds are distributed. If Fifth Street ceases to be the collateral manager to the FSSLF II during a quarter, it will be entitled to any accrued but unpaid collateral manager incentive fees through the date of its removal.

Fifth Street may waive or reduce all or a portion of the collateral manager incentive fee attributable to any investor in the FSSLF Entities.

#### Other Expenses

The FSSLF Entities will bear, and pay or reimburse, all costs and expenses (including the fees and disbursements of legal counsel and accountants) that Fifth Street and the FSSLF Entities incur in connection with the negotiation and the preparation and execution of the collateral management agreement and any amendment thereto, and all matters incidental thereto. The FSSLF Entities will pay or reimburse Fifth Street for expenses, including fees and out-of-pocket expenses reasonably incurred by Fifth Street in connection with the services provided by Fifth Street under the collateral management agreement or the indenture, including relating to the financing with respect to (i) legal advisers, consultants, rating agencies, accountants, brokers and other professionals retained by the FSSLF Entities or Fifth Street (on behalf of the FSSLF Entities), (ii) asset pricing and asset rating services, compliance services and software, and accounting, programming and data entry services directly related to the management of the assets, (iii) all taxes, regulatory and governmental charges (not based on the income of Fifth Street), insurance premiums or expenses, (iv) any and all costs and expenses incurred in connection with the acquisition or disposition of investments on behalf of the FSSLF Entities (whether or not actually consummated) and management thereof, including attorneys’ fees and disbursements, (v) any fees, expenses or other amounts payable to rating agencies, (vi) expenses and fees relating to any issuance of additional notes, redemption, refinancing or re-pricing, as applicable, by the FSSLF Entities, (vii) any extraordinary costs and expenses incurred by Fifth Street in the performance of its obligations under the collateral management agreement and the indenture and (viii) as otherwise agreed upon by the FSSLF Entities and Fifth Street. The fees and expenses payable to Fifth Street are payable in accordance with the priority of payments under the “waterfall” structure.

#### General

None of Fifth Street or its principals, members, managers, directors (or other persons occupying a similar status or performing similar functions), or employees (if any), or any other person who provides investment advice on Fifth Street's behalf and is subject to Fifth Street's supervision or control (collectively, "Supervised Persons") accepts any compensation for the sale of securities or other investment products, including interests in the FSSLF Entities.

Please see Items 6 (Performance-Based Fees and Side-By-Side Management), 10 (Other Financial Industry Activities and Affiliations) and 12 (Brokerage Practices).

#### **Item 6      PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Fifth Street manages FSSLF I and FSSLF II, both of which are subject to asset-based management fees and performance-based fees. Please see Item 5 (Fees and Compensation). Fifth Street does not currently manage any funds or other accounts that are subject to any other type of fee. However, Fifth Street may, in the future, manage additional funds or accounts with higher or lower fees, and different fee structures, than those applicable to the FSSLF Entities.

#### **Item 7      TYPES OF CLIENTS**

Currently, Fifth Street does not have any clients or RAUM. Fifth Street anticipates, following registration with the SEC, that it will provide investment advice to private funds. Fifth Street may provide investment advice to other clients in the future, including pooled investment vehicles and separately managed accounts.

Please see Item 4 Advisory Business

#### **Item 8      METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

**Fifth Street currently does not have any clients; however, upon registration with the SEC and approval of the collateral management agreement with the FSSLF Entities, Fifth Street anticipates the methods of analysis and investment strategies set forth below to be utilized. In addition, outlined below are certain risk factors that clients should consider when making an investment in the FSSLF Entities.**

##### **Methods of Analysis and Investment Strategies**

Depending on conditions and trends in the securities markets and the economy in general, Fifth Street may use other methods of analysis than those described below. There can be no assurance that Fifth Street's methods of analysis will achieve profitable results.

Currently, the investment objective of the FSSLF Entities is to generate leveraged returns through an investment strategy focused on the acquisition, directly or indirectly through subsidiaries, of a portfolio of senior, secured term loan debt (including broadly syndicated loans, first lien term loans, second lien loans and to a lesser extent delayed draw term loans and revolving loans) of middle market companies. The acquired portfolios of loan debt currently provide eligible collateral for securitization financing, which the FSSLF Entities employ to enhance the size of investment portfolios and magnify returns generated from such portfolios.

Portfolio investments in loans are subject to certain criteria and restrictions with respect to the loans and the underlying obligors. In particular, Fifth Street may not invest in a loan of which Fifth Street or an affiliate is the obligor.

### **Certain Risk Factors**

Fifth Street's intended investment strategy on behalf of the FSSLF Entities involves a substantial risk of loss of capital. All investment programs possess certain risks of loss that clients should be prepared to bear. The foregoing contains certain of the material risks involved in the FSSLF Entities' investment strategies and does not purport to be complete. Investors should carefully review the applicable offering documents and consult with their own professional advisor(s) prior to making an investment. Unless otherwise indicated, the risk factors summarized below apply to both FSSLF Entities.

*General Economic Conditions.* Debt instruments are subject to credit and interest rate risks. Credit risk refers to the likelihood that an obligor will default in the payment of principal or interest on an instrument. Financial strength and solvency of an obligor are the primary factors influencing credit risk. In addition, lack or inadequacy of collateral or credit enhancement for a debt instrument may affect its credit risk. Credit risk may change over the life of an instrument and debt instruments that are rated by rating agencies are often reviewed and may be subject to downgrade. Interest rate risk refers to the risks associated with market changes in interest rates. Interest rate changes may affect the value of a debt instrument indirectly (especially in the case of fixed rate obligations) or directly (especially in the case of instruments whose rates are adjustable). In general, rising interest rates will negatively impact the price of a fixed rate debt instrument and falling interest rates will have a positive effect on price. Adjustable rate instruments also react to interest rate changes in a similar manner although generally to a lesser degree (depending, however, on the characteristics of the reset terms, including the index chosen, frequency of reset and reset caps or floors, among other factors). Interest rate sensitivity is generally more pronounced and less predictable in instruments with uncertain payment or prepayment schedules.

*Developments in the Leveraged Loan Market.* During the last several years, the global economy has been affected by a crisis in the credit markets and continues to experience a general downturn and, in the United States, a slow and uncertain recovery. The global economy is still being negatively affected by, among other things, certain national deficits and sovereign debt levels and the continuing sovereign debt crisis in certain European countries. Among the sectors of the global credit markets that experienced particular difficulty during the credit crisis were the collateralized debt obligations and leveraged finance markets. There is no assurance that such markets may not experience similar difficulties in the future. There continues to exist significant risks for the FSSLF Entities and investors as a result of uncertain or volatile economic conditions. These risks include, among others, (i) the likelihood that it may be more difficult to sell any of the portfolio investments in the secondary market, thus rendering it more difficult to dispose of such portfolio investments, (ii) the possibility that, the price at which portfolio investments can be sold by an FSSLF Entity will have deteriorated from their effective purchase price, (iii) the illiquidity of an investment in an FSSLF Entity, as there is currently little or no secondary trading in securities issued in connection with entities such as the FSSLF Entities and



none is expected to develop, and (iv) the possibility of a “double-dip” recession or other economic downturn affecting obligors. These risks may affect the returns to investors and the ability of investors to realize their returns. The loans will primarily consist of term loan debt of middle market companies that may be particularly susceptible to economic slowdowns or recessions and may be unable to make scheduled payments of interest or principal on their borrowings during these periods. Although the leveraged finance and collateralized loan obligation markets have made significant recoveries from the adverse impact of the credit crisis, there can be no assurance that the leveraged finance and collateralized loan obligation markets will not be adversely impacted by future economic downturns or market volatility.

*Middle Market Company and Below Investment Grade Risk.* The loans will primarily consist of term loan debt of middle market companies, most of which will be privately-owned. Each of the FSSLF Entities expects to acquire below investment grade loans to privately-owned middle market companies or interests in such loans, which are subject to liquidity, market value, credit, interest rate, reinvestment and certain other risks. It is anticipated that such loans generally will be subject to greater risks than investment grade corporate obligations or large borrower syndicated obligations. These risks could be exacerbated to the extent that the FSSLF Entity’s portfolio is concentrated in one or more particular types of loans. While a limited amount of concentration of certain loans with respect to any particular obligor, region or industry is expected to exist from time to time, prepayments of loans and the disposition by the FSSLF Entity of loans and any subsequent reinvestment in other loans may result in a greater concentration in any one obligor, region or industry, and such concentration could subject the FSSLF Entity to a greater degree of risk with respect to defaults by such obligor, and such concentration of the FSSLF Entity’s portfolio in any one industry or region could subject the FSSLF Entity to a greater degree of risk with respect to economic downturns relating to such industry or region. The market for below investment grade loans has experienced periods of severe price volatility and reduced liquidity.

Loans to middle market companies may carry more inherent risks than loans to larger entities, whether publicly-traded or privately-owned. For example, there is generally no publicly available information about privately-owned middle market companies and some obligors may not meet net income, cash flow and other coverage tests typically imposed by lenders. Further, middle market companies that are obligors of below investment grade loans may be highly leveraged and may not have available to them more traditional methods of financing. These companies generally have more limited access to capital and higher funding costs, may be in a weaker financial position, may need more capital to expand or compete, and may be unable to obtain financing from public capital markets or from traditional sources, such as commercial banks. Accordingly, loans made to middle market companies may involve higher risks than loans made to companies that have larger businesses, greater financial resources or are otherwise able to access traditional credit sources. Middle market companies typically have narrower product lines and smaller market shares than large businesses. Therefore, they tend to be more vulnerable to competitors’ actions and market conditions, as well as general economic downturns. These businesses may also experience substantial variations in operating results. The success of a middle market company may also depend on the management talents and efforts of one or two persons or a small group of persons. The death, disability or resignation of one or more of these persons could have a material adverse impact on the obligor.

All risks associated with the FSSLF Entity's investment in such loans will be borne by the investors. Numerous factors may affect an obligor's ability to repay its loans, including the failure to meet its business plan, a downturn in its industry or continuing unfavorable general economic conditions. During an economic downturn or a sustained period of rising interest rates, such obligors may be more likely to experience financial stress and may be unable to meet their debt obligations due to the obligors' inability to meet specific projected business forecasts or the unavailability of financing. A deterioration in an obligor's financial condition and prospects may be accompanied by deterioration in the collateral securing the relevant loan. Such deterioration might impair the ability of the obligor thereof to obtain refinancing or force it to seek to have the loan restructured.

Below investment grade loans made to middle market companies may have default rates that differ from (and may be greater than) investment grade securities or loans made to companies that have larger businesses, greater financial resources or are otherwise able to access traditional credit sources. There can be no assurance as to the levels of defaults and/or recoveries that may be experienced on the loans held by the FSSLF Entity, and an increase in default levels could adversely affect returns to investors. Such loans (and interests in such loans) are generally considered speculative in nature and may become a defaulted obligation for a variety of reasons. Upon any loan becoming a defaulted loan, such defaulted loan may become subject to either substantial workout negotiations or restructuring, which may entail, among other things, a substantial reduction in the interest rate, a substantial write-down of principal, and a substantial change in the terms, conditions and covenants with respect to such defaulted obligation. In addition, such negotiations or restructuring may be quite extensive and protracted over time, and therefore may result in substantial uncertainty with respect to the ultimate recovery on such defaulted loan. Also, the FSSLF Entity's inability to agree to restructurings of a defaulted obligation that extends its maturity past the initial maturity of such obligation can lead to lower recoveries on any such defaulted loans. The liquidity for defaulted loans may be limited, and to the extent that defaulted loans are sold, it is highly unlikely that the proceeds from such sale will be equal to the amount of unpaid principal and interest thereon.

*Loan Liquidity Risk.* There is typically no established trading market for the loans expected to be held by the FSSLF Entities. Such loans are not generally traded in organized exchange markets but may be traded by banks and other institutional investors engaged in loan syndications. Because loans are privately syndicated and loan agreements are privately negotiated and customized, loans are not purchased or sold as easily as publicly traded securities. In addition, historically the trading volume in the loan market has been small relative to the high-yield debt securities market. Given the limited trading market for loans and the uncertainty as to their fair value at any point in time, if Fifth Street seeks to sell a loan, it may not be able to do so at a favorable price or at all. Fifth Street will value such loans in accordance with the valuation principles described in the governing documents of the applicable FSSLF Entity; the valuation of any loans may differ materially from the values that may ultimately be attained in the sale of any such loan.

*Concentration Risk.* Returns of each FSSLF Entity could be impaired by the concentration of loans held by the FSSLF Entity in any one obligor or to obligors in a particular industry or geographic location in the event that such obligor, industry or geographic location were to experience adverse business conditions or other adverse events. In addition, defaults may be

highly correlated with particular obligors, industries or geographic locations. If loans involving a particular obligor, industry or geographic location represent more than a small proportion of portfolio investments, and that obligor, industry or geographic location were to experience difficulties that would affect payments on the loans, the overall timing and amount of collections on the loans held by the FSSLF Entity may differ from what investors may have expected and losses may occur.

*Lender Liability and Equitable Subordination.* A number of judicial decisions have upheld judgments of obligors against lenders on the basis of various evolving legal theories, collectively termed “lender liability.” Generally, lender liability is founded on the premise that a lender has violated a duty (whether implied or contractual) of good faith, commercial reasonableness and fair dealing, or a similar duty owed to the obligor or has assumed an excessive degree of control over the obligor resulting in the creation of a fiduciary duty owed to the obligor or its other creditors or shareholders. Because of the nature of the loans held by the FSSLF Entities, the FSSLF Entities may be subject to allegations of lender liability.

In addition, under common law principles that in some cases form the basis for lender liability claims, if a holder of a loan or a bondholder (a) intentionally takes an action that results in the undercapitalization of a obligor to the detriment of other creditors of such obligor, (b) engages in other inequitable conduct to the detriment of such other creditors, (c) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (d) uses its influence as a stockholder to dominate or control a obligor to the detriment of other creditors of such obligor, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors, a remedy called “equitable subordination.” Because of the nature of the loans, the FSSLF Entities may be subject to claims of equitable subordination. Because affiliates of, or persons related to, Fifth Street (including other accounts or vehicles managed by Fifth Street) may hold equity or other interests in obligors of loans held by the FSSLF Entities, the FSSLF Entities could be exposed to claims for equitable subordination or lender liability or both based on such equity or other holdings.

The preceding discussion is based upon principles of United States federal and state laws. The FSSLF Entities’ investment activities also subject them to the normal risks of becoming involved in litigation by third parties. This risk is somewhat greater if Fifth Street or any affiliate thereof exercises control or significant influence over a company’s direction. The expense of defending against claims by third parties and paying any amounts pursuant to settlements or judgments would be borne directly or indirectly by the FSSLF Entities and would reduce the amounts available for distribution to the investors. Fifth Street and certain others will be indemnified by the FSSLF Entities in connection with such litigation, subject to certain conditions, further reducing such available amounts.

*Participation on Creditors’ Committees.* Each of the FSSLF Entities may (through Fifth Street) participate on committees formed by creditors to negotiate the management of financially troubled companies that may or may not be in bankruptcy or the FSSLF Entity may seek to negotiate directly with such debtors with respect to restructuring issues. If an FSSLF Entity does join a creditors’ committee, the participants of the committee would be interested in obtaining an outcome that is in their respective individual best interests and there can be no assurance of

obtaining results most favorable to the FSSLF Entity in such proceedings. By participating on such committees, an FSSLF Entity may be deemed to have duties to other creditors represented by the committees, which might expose the FSSLF Entity to liability to such other creditors who disagree with the FSSLF Entity's actions. Furthermore, by participating on such committees, an FSSLF Entity may be contractually obligated to hold the related portfolio investments even if it would otherwise be in the best interests of the FSSLF Entity to sell. In addition, Fifth Street and its affiliates or Other Accounts may also have or establish relationships with, and participate on credit committees with respect to, obligors (through holding debt obligations issued by such obligors or otherwise) whose loans are held by an FSSLF Entity, and such debt obligations may have interests different from or adverse to the loans held by the FSSLF Entity.

*Prepayment Risk.* Loans are generally prepayable in whole or in part at any time at the option of the obligor thereof at par plus accrued unpaid interest thereon and without any additional prepayment fee or penalty. Prepayments on loans may be caused by a variety of factors which are often difficult to predict including, without limitation, in connection with refinancing or defaults. Consequently, there exists a risk that loans purchased at a price greater than par may experience a capital loss as a result of such a prepayment. In addition, principal proceeds received upon such a prepayment are subject to reinvestment risk during an investment period. Any inability of Fifth Street to reinvest payments or other proceeds in loans or other portfolio investments with comparable interest rates in an expedient manner may result in an FSSLF Entity realizing a return that is less than the return such FSSLF Entity would have realized with respect to the prepaid loan had such loan been held to maturity. There is no assurance that an FSSLF Entity will be able to reinvest proceeds in assets with comparable interest rates or (if it is able to make such reinvestments) as to the length of any delays before such investments are made. In addition, certain of the loans may include excess cash flow capture and other mandatory prepayment provisions which may accelerate the amortization of the applicable loans.

The rate of prepayments, refinancings, amortization and defaults may be influenced by various factors including:

- changes in obligor performance and requirements for capital;
- the level of interest rates;
- lack of credit being extended and/or the tightening of credit underwriting standards in the commercial lending industry; and
- the overall economic environment, including any fluctuations in economic conditions.

Fifth Street cannot predict the actual rate of prepayments, refinancing, accelerated amortization or defaults which will be experienced with respect to the loans and other portfolio investments held by the FSSLF Entities.

*Refinancing Risk.* A material portion of the loans held by each FSSLF Entity will consist of loans for which most or all of the principal is due at maturity. The ability of an obligor to make such a large payment upon maturity typically depends upon its ability either to refinance the loan prior to maturity or to generate sufficient cash flow to repay the loan at maturity or to engage in a sale of all or a portion of the business of such obligor. The ability of an obligor to accomplish any of these goals will be affected by many factors, including the availability of financing at acceptable rates to such obligor, the financial condition of such obligor, the marketability of the

collateral (if any) securing such loan, the operating history of the related business, tax laws and the prevailing general economic conditions. Consequently, such obligor may not have the ability to repay the loan at maturity and, unless it is able to refinance such debt, it could default in payment at maturity, which could result in losses to FSSLF and, indirectly, to the investors.

Significant numbers of obligors on loans may face the need to refinance their debt over the next few years, and significant numbers of collateralized loan obligation transactions (historically an important source of funding for loans) have reached or are close to reaching the end of their reinvestment periods or the final maturities of their own debt. As a result, there could be significant pressure on the ability of obligors on loans to refinance their debt over the next few years unless the volume of new collateralized loan obligation transactions or other sources of funding exist at such time to provide such refinancing. If such sources of funding do not exist, significant defaults in loans could occur, and there could be downward pressure on the prices and markets for debt instruments, including loans.

*Priority of Certain Liens.* Liens arising by operation of law may take priority over an FSSLF Entity's liens on an obligor's underlying collateral and impair such FSSLF Entity's recovery on a loan in the event of a default or foreclosure on that loan. Federal, state or local law may grant liens on the collateral (if any) securing a loan that have priority over an FSSLF Entity's interest. An example of a lien arising under federal or state law is a tax or other government lien on property of an obligor. A tax lien may have priority over an FSSLF Entity's lien on such collateral. To the extent a lien having priority over an FSSLF Entity's lien exists with respect to the collateral related to any loan, such FSSLF Entity's interest in the asset will be subordinate to such lien. If the creditor holding such lien exercises its remedies, it is possible that, after such creditor is repaid, sufficient cash proceeds from the underlying collateral will not be available to pay the outstanding principal amount of such loan.

*Insolvency Risk.* Various laws enacted for the protection of creditors may apply to the loans. The information in this and the following paragraph is applicable with respect to U.S. obligors. If a court in a lawsuit brought by an unpaid creditor or representative of creditors of an obligor of a loan, such as a trustee in bankruptcy, were to find that the obligor did not receive fair consideration or reasonably equivalent value for incurring the indebtedness constituting such loan and, after giving effect to such indebtedness, the obligor (i) was insolvent, (ii) was engaged in a business for which the remaining assets of such obligor constituted unreasonably small capital or (iii) intended to incur, or believed that it would incur, debts beyond its ability to pay such debts as they mature, such court could determine to invalidate, in whole or in part, such indebtedness as a fraudulent conveyance, to subordinate such indebtedness to existing or future creditors of the obligor or to recover amounts previously paid by the obligor in satisfaction of such indebtedness. The measure of insolvency for purposes of the foregoing will vary. Generally, an obligor would be considered insolvent at a particular time if the sum of its debts were then greater than all of its property at a fair valuation or if the present fair salable value of its assets were then less than the amount that would be required to pay its probable liabilities on its existing debts as they became absolute and matured. There can be no assurance as to what standard a court would apply in order to determine whether the obligor was "insolvent" after giving effect to the incurrence of the indebtedness constituting the loans or that, regardless of the method of valuation, a court would not determine that the obligor was "insolvent" upon giving effect to such incurrence. In addition, in the event of the insolvency of an obligor of a loan,

payments made on such loan could be subject to avoidance as a “preference” if made within a certain period of time (which may be as long as one year under federal bankruptcy law or even longer under state laws) before insolvency. In general, if payments on loans are avoidable, whether as fraudulent conveyances or preferences, such payments can be recaptured. To the extent that any such payments are recaptured from an FSSLF Entity, the resulting loss will be borne indirectly by the investors.

*Bankruptcy Risk.* Bankruptcy of one or more obligors could reduce or eliminate the return to an FSSLF Entity on a loan and so may impair the return to investors. There is a significant risk that one or more of the obligors to loans held by an FSSLF Entity may enter bankruptcy proceedings. Such proceedings may result in, among other things, a substantial reduction in the interest rate and a substantial write down of the principal of the related loan(s). There are a number of significant risks inherent in the bankruptcy process. First, rulings in a bankruptcy case are the product of adversarial proceedings determined by a court with equitable powers, and are beyond the control of specific creditors. Second, a bankruptcy filing may adversely and permanently affect the obligor making such filing. The obligor may lose its market position, key employees, and relationships with important suppliers, access to the capital markets or other sources of liquidity and otherwise become incapable of restoring itself as a viable entity. If for this or any other reason, a Chapter 11 reorganization is converted to or becomes a liquidation, the liquidation value of the obligor may not equal the liquidation value that was believed to exist at the time of purchase of the loan. Third, the duration of a bankruptcy case is difficult to predict. A creditor’s return on investment can be adversely affected by delays while a plan of reorganization is being negotiated, approved by parties in interest and confirmed by the bankruptcy court until it ultimately becomes effective. For example, in general, unsecured creditors’ claims for interest accrued between the bankruptcy filing and a reorganization plan’s consummation are not allowed. Fourth, the administrative costs of the debtor and official committees in connection with the bankruptcy case are frequently high and will be paid out of the debtor’s estate prior to any return to general unsecured creditors. If the bankruptcy case involves protracted or difficult litigation, or turns into a liquidation, substantial assets may be devoted to such administrative costs; a creditor’s costs in monitoring and enforcing its investment also may substantially increase. Certain claims that have priority by law (for example, claims for taxes) also may be significant. Finally, under certain circumstances, creditors’ claims against bankrupt or insolvent entities may be subject to equitable subordination or recharacterization as equity (particularly where the creditor is an insider or otherwise controls the debtor), and transfers made to creditors may be subject to avoidance and disgorgement as preferences or fraudulent conveyances as described above.

*Interest Rate Risk.* Rising interest rates may render some obligors unable to pay interest on their loans. Most of the loans expected to be held by the FSSLF Entities bear interest at floating interest rates. To the extent interest rates increase, periodic interest obligations owed by the related obligors will also increase. As prevailing interest rates increase, some obligors may not be able to make the increased interest payments on loans or refinance their balloon and bullet loans, resulting in payment defaults and defaulted loans. Conversely if interest rates decline, obligors may refinance their loans at lower interest rates which would result in prepayment risk as described under the heading “—Prepayment Risk” above.

*“Cash Flow” Loans.* A significant portion of the loans to be acquired by the FSSLF Entities are

expected to be “cash flow” corporate loans to the obligors thereof. Cash flow lending involves lending money to an obligor based primarily on the expected cash flow, profitability and enterprise value of such obligor, with the value of any tangible assets as secondary protection. In some cases, cash flow loans may have more leverage than traditional bank debt. In the case of a senior cash flow loan, the transferor generally takes a lien on substantially all of an obligor’s assets, but the value of those tangible assets is typically less than the amount of money advanced to the obligor of such loan. The risks inherent in cash flow lending include, among other things:

- reduced use of or demand for the obligor’s products or services and, thus, reduced cash flow of the obligor to service the loan as well as reduced value of the obligor as a going concern;
- inability of the obligor to manage working capital, which could result in lower cash flow;
- inaccurate or fraudulent reporting of the obligor’s positions or financial statements;
- economic downturns, regulatory changes, litigation or other macroeconomic factors that affect the obligor’s business, financial condition and prospects; and
- the obligor’s poor management of its business.

Additionally, many obligors use the proceeds of cash flow transactions to make acquisitions. Poorly executed or poorly conceived acquisitions can tax management, systems and the operations of the existing business, causing a decline in both the obligor’s cash flow and the value of its business as a going concern. In addition, acquisitions often involve new management teams taking over control of an obligor. These new management teams may fail to execute at the same level as the former management team, which could reduce the cash flow of the obligor available to service the loan, as well as reduce the value of the obligor as a going concern.

*Restructuring Risk.* Fifth Street, on behalf of each FSSLF Entity, has broad authority to direct and supervise the investment and reinvestment of the FSSLF Entity’s assets, including loans held by the FSSLF Entity, which may include the execution of amendments, waivers, modifications and other changes to such loans. During an economic downturn or recession, it is likely that the incidence of amendments, waivers, modifications and restructurings of loans would increase, which may lead to a decrease in the value of such loans that could adversely affect an FSSLF Entity and its investors. Alternatively, during an economic recovery, obligors may seek repricing and/or extensions of their loans in lieu of prepaying and/or refinancing such loan.

There is no guarantee that any particular restructuring strategy pursued by Fifth Street will maximize the value of or any recovery on any loan. Any restructuring could fundamentally alter the nature of the related loan and restructurings are not subject to the same underwriting standards that are employed in connection with the origination or acquisition of loans. Any restructuring could alter, reduce or delay the payment of interest or principal from any loan. Restructurings of loans might result in extensions of the term thereof, which would likely extend the average life of such loans and, in the aggregate, could extend the weighted average life of the loans held by an FSSLF Entity and adversely affect the FSSLF Entity’s returns.

Additionally, an obligor may issue equity securities in connection with the restructuring of any loan. If any restructuring of a loan takes the form of an exchange of a loan for new debt and equity securities or for all equity securities, an FSSLF Entity would receive or may form a

subsidiary to receive its share of such equity securities as part of portfolio investments. Fifth Street may sell any equity security in its discretion under certain circumstances.

*Cross-Collateralization Risk.* Certain of the loans in which an FSSLF Entity may invest are expected to be cross-collateralized with other tranches of indebtedness incurred by the same obligor and may be cross-collateralized with indebtedness issued by more than one obligor. Cross-collateralization arrangements involving more than one obligor could be challenged as fraudulent conveyances by creditors of the related obligor in an action brought outside a bankruptcy case or, if the obligor were to become a debtor in a bankruptcy case, by the obligor's representative (or the obligor as debtor-in-possession), U.S. Trustee or creditors' committee. A lien granted by the obligor could be voided if a court were to determine that (i) the obligor was insolvent when it granted the lien securing the loan, was rendered insolvent by the granting of the lien, was left with inadequate capital when it allowed its properties to be encumbered by a lien securing the loan, or was not able to pay its debts as they became due, and (ii) the obligor did not receive fair consideration or reasonably equivalent value when it allowed its properties to be encumbered by a lien securing the loan.

Among other things, a legal challenge to the granting of the liens may focus on the benefits realized by the related obligor from the applicable loan proceeds, as well as the overall cross-collateralization. If a court were to conclude that the granting of the liens to cross-collateralize a loan was a voidable fraudulent conveyance, such court could:

- subordinate all or part of the pertinent loan to existing or future indebtedness of that obligor;
- recover payments made under that loan; or
- take other actions detrimental to the FSSLF Entity, including, under certain circumstances, invalidating the loan or the FSSLF Entity's interest in the collateral securing the cross-collateralized loan.

*Syndicated Loan Risk.* The loans acquired by the FSSLF Entities are expected to include syndicated loans. Under the underlying documents with respect to syndicated loans, a financial institution or other entity may be designated as the administrative agent and/or collateral agent or a person acting in a similar capacity. Under these arrangements, the obligor grants a lien to the agent on behalf of the holders of the associated indebtedness and directs payments to the agent, which, in turn, will distribute payments to the holders of the associated indebtedness, including the FSSLF Entities. As is typical in such agency arrangements, the agent is the party responsible for administering and enforcing the loan and generally may take actions only in accordance with the instructions of a majority or two thirds in commitments and/or principal amount of the associated indebtedness. In the case of loans that are part of a capital structure that includes both senior and subordinated indebtedness, the agent may take such action in accordance with the instructions of one or more senior tranches of the related indebtedness without any right to vote (except in certain limited circumstances) on the subordinated tranches of the related indebtedness. In many cases, the loans held by an FSSLF Entity represent less than the amount of associated indebtedness sufficient to compel such actions or represent subordinated debt which is precluded from acting and, consequently, the FSSLF Entity would only be able to direct such actions if instructions from the FSSLF Entity were made in conjunction with other holders of associated indebtedness that together with the FSSLF Entity compose the requisite percentage



of the related indebtedness then entitled to take action. Conversely, if holders of the required amount of the associated indebtedness other than the FSSLF Entity desire to take certain actions, such actions may be taken even if the FSSLF Entity did not support such actions. Furthermore, if a loan is subordinated to one or more senior loans made to the obligor, the ability of the FSSLF Entity to exercise such rights may be subordinated to the exercise of such rights by the senior lenders. However, as is typical for such loans, certain actions, including amendments to the payment terms of the loans, typically may not be taken without consent of all holders of the related indebtedness, including the FSSLF Entity. If the loan is a syndicated revolving loan or delayed drawdown loan, other lenders may fail to satisfy their full contractual funding commitments for such loan, which could create a breach of contract resulting in a lawsuit by the obligor against the lenders and adversely affect the fair market value of such loan.

There is a risk that a loan agent may become bankrupt or insolvent. Such an event would delay, and possibly impair, any enforcement actions undertaken by holders of the associated indebtedness such as the FSSLF Entities, including attempts to realize upon the collateral securing the loan and/or direct the agent to take actions against the related obligor or the collateral securing a loan and actions to realize on proceeds of payments made by obligors that are in the possession or control of such loan agent. In addition, agent loans typically allow for the agent to resign with certain advance notice. Such loans may not, however, contain provisions for holders of the associated indebtedness to remove the agent thereunder. Therefore, under circumstances where removal of the agent would be in the best interests of the holders of the associated indebtedness (including the FSSLF Entities), the underlying loan documents would have to be amended by the requisite holders of the associated indebtedness with the agreement of the agent to remove the agent thereunder.

*Performance-Related Interest Rates.* Certain loans held by the FSSLF Entities may feature interest rates which will vary based on certain financial ratios of the related obligor. The interest rates payable by the obligors under these loans will be reduced if the applicable financial ratios of the related obligors improve and, accordingly, an improvement in the financial performance of obligors under these loans would result in a decrease in cash proceeds available for reinvestment or distribution to investors. Conversely, the interest rates payable by the obligors under these loans will be increased if the applicable financial ratios of the related obligors deteriorate. However, while deterioration in the financial performance of obligors under these loans would result in an increase in interest income received by an FSSLF Entity, increased payment obligations of such obligors could weaken the financial condition of such obligors in the future.

*Assignment Restrictions.* Certain of the loans expected to be acquired by the FSSLF Entities contain provisions prohibiting the loans from being assigned or otherwise transferred to parties who do not meet certain criteria set forth in the applicable governing documents. If Fifth Street attempts to sell such loans, it could not sell the loans to a transferee that did not meet the criteria in the applicable governing documents. Such provisions could have an adverse effect on the value received for such loans by the FSSLF Entity upon any sale or liquidation.

*Delayed Draw Term Loans.* Delayed draw term loans purchased by the FSSLF Entities may have one or more future funding obligations. Cash proceeds or capital contributions may be utilized to satisfy ongoing funding obligations with respect to loans that are delayed draw term loans or to create reserves with respect thereto. Depending on the timing of any such funding of

such loans, and factors such as prevailing interest rates and market conditions for loans generally at such time, an FSSLF Entity's utilization of cash proceeds, reserves or capital contributions at such time may result in a lower yield on portfolio investments than investors may have otherwise been able to achieve on such cash proceeds or capital contributions.

*Loans May Have Different Seasoning.* The loans acquired by the FSSLF Entities have different seasoning periods. Further, there is no guarantee that any additional loans subsequently acquired will or will not have significant seasoning. With respect to loans with short seasoning periods, it is difficult to predict what level of delinquencies and defaults an FSSLF Entity may experience over the life of such loans, including, in the case of loans which do not initially require the related obligor to make principal payments, once such obligors are required to begin making principal payments. With respect to loans with extensive seasoning, certain of such loans have experienced credit deterioration since their origination or purchase by an FSSLF Entity. Furthermore, the shortened remaining life of such a seasoned loan may increase the need for such loan to be restructured to avoid a default if refinancing cannot be obtained or may encourage the related obligor to seek to refinance (and, thus possibly prepay) such loan. Such delinquencies, defaults, restructurings and refinancings may reduce, delay, accelerate or otherwise alter returns to investors.

*Second Lien Loans and Participations.* An FSSLF Entity's investment program may include investments in second lien loans and participations. These obligations are subject to unique risks, including, among other things: (a) the possible invalidation of investment transactions as fraudulent conveyances or preferential payments under relevant creditors' rights laws or the subordination of claims under so-called "equitable subordination" common law principles, (b) lender-liability claims by the issuer of the obligations, and (c) limitations on the ability of the FSSLF Entity to directly enforce its rights with respect to participations. In analyzing each second lien loan or participation, Fifth Street compares the relative significance of the risks against the expected benefits of the investment. Successful claims by third parties arising from these and other risks, absent certain conduct by Fifth Street and its affiliates, and certain other individuals, will be borne by the FSSLF Entity.

In addition, the nature of second lien loans will entail risks related to priority with respect to collateral, including (a) the subordination of an FSSLF Entity's claims to a senior lien in terms of the coverage and recovery of the collateral and (b) the prohibition of, or limitation on, the right to foreclose on a second lien or exercise other rights as a second lien holder. In certain cases, therefore, no recovery may be available from a defaulted second lien loan. The level of risk associated with investments in second lien loans increases to the extent such investments are loans of distressed or below investment grade companies.

Please see Items 4 (Advisory Business), 10 (Other Financial Industry Activities and Affiliations), 11 (Code of Ethics, Participation in Client Transactions and Personal Trading) and 12 (Brokerage Practices).

## **Item 9     DISCIPLINARY INFORMATION**

There are no legal or disciplinary events that are material to current or prospective clients' or investors' evaluation of or the integrity of Fifth Street or its management persons.

## **Item 10 OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

As discussed in Item 4 (Advisory Business), Mr. Tannenbaum is the founder of Fifth Street. FSAM is the general partner of Fifth Street Holdings. Fifth Street is wholly owned by Fifth Street Holdings, and FSAM holds a minority interest in Fifth Street Holdings. The majority of interests in Fifth Street Holdings is held by employees of affiliates of Fifth Street, including Mr. Tannenbaum.

In addition to the FSSLF Entities, Fifth Street and its affiliates may advise or manage other investment vehicles and accounts for which they are compensated. Certain of such investment vehicles and accounts may have investment objectives and utilize strategies similar to the investment objective and strategies of the FSSLF Entities. In addition, Fifth Street and its affiliates may participate or invest in other business ventures of any kind, including, without limitation, the management of or investment in other investment entities or securities. Some of these activities may be conducted on behalf of certain clients of Fifth Street and/or its affiliates.

Fifth Street Management is an SEC Registered Investment Adviser and affiliate of Fifth Street. Fifth Street and Fifth Street Management operate out of the same principal place of business and share certain employees. Fifth Street Management serves as investment adviser to private funds and certain specialty companies operating as business development companies. Currently, Fifth Street Management serves as collateral manager to the Fifth Street Senior Loan Fund I, LLC (“FSSLF I”) and Fifth Street Loan Fund II, LLC, which will become the predecessor to Fifth Street SLF II, Ltd. (“FSSLF II”, and together with FSSLF I, the “FSSLF Entities”). Upon Fifth Street’s registration with the SEC and approval of the collateral management agreement with the FSSLF Entities, Fifth Street Management will cease being collateral manager to the FSSLF Entities and no longer advise securitized asset funds similar to the FSSLF Entities. However, the same investment advisory personnel will continue to service the FSSLF Entities.

Fifth Street Capital LLC (“Fifth Street Capital”) is an exempt reporting advisor and affiliate of Fifth Street. Fifth Street and Fifth Street Capital operate out of the same principal place of business and share certain employees. Fifth Street Capital serves as investment adviser to two private funds.

From time to time, certain personnel of Fifth Street and its affiliates may come into possession of material, nonpublic information that would limit the ability of the FSSLF Entities to buy and sell investments. The investment flexibility of the FSSLF Entities may be constrained as a consequence of Fifth Street’s inability to take certain actions because of such information. The FSSLF Entities may experience losses if they are unable to sell an investment that they hold because certain personnel have obtained material, nonpublic information about such investment.

Please see Items 4 (Advisory Business), 5 (Fees and Compensation), 8 (Methods of Analysis, Investment Strategies and Risk of Loss), 11 (Code of Ethics, Participation in Client Transactions and Personal Trading) and 12 (Brokerage Practices).

## **Item 11 CODE OF ETHICS, PARTICIPATION IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

Fifth Street has adopted a Code of Ethics (the “Code”) pursuant to Rule 204A-1 under the Investment Advisers Act of 1940, as amended (the “Advisers Act”). The Code requires that Fifth Street and Supervised Persons (defined therein) comply with applicable federal securities laws. The Code also provides that Fifth Street and its Supervised Persons owe a fiduciary duty to clients, including the duty to put the best interests of clients ahead of the interests of Fifth Street and of Supervised Persons. The Code is provided to each Supervised Person, and Supervised Persons are required to acknowledge receipt of the Code.

Subject to applicable law, internal compliance policies and approval procedures, Fifth Street, its affiliates and/or their respective principals, employees (if any) and other affiliates may make trades and investments for their own accounts (including, without limitation, in securities, commodities and other financial instruments in which the FSSLF Entities may invest). In these accounts, they may use trading and investment methods that are similar to, or substantially different from, the methods used by them to direct the FSSLF Entities’ assets.

The Code requires the Chief Compliance Officer of Fifth Street to maintain a current list of issuers of securities that Fifth Street is analyzing and/or recommending for client transactions. A Supervised Person who is involved in making securities recommendations to clients or has access to nonpublic information on client investments or recommendations (each, an “Access Person”) may not purchase or sell, whether directly or indirectly, any security that is on the list.

Access Persons are required to obtain prior written approval from the Chief Compliance Officer prior to purchasing or selling, whether directly or indirectly, any security in an initial public offering or limited offering. The Chief Compliance Officer will consider whether the opportunity to purchase or sell such securities should be first offered to eligible clients of Fifth Street, and whether the Access Person is being offered the investment opportunity because of his or her position with Fifth Street.

The Code requires Supervised Persons to provide the Chief Compliance Officer with certain securities holdings reports and periodic transaction statements and requires the Chief Compliance Officer to review those reports.

Potential violations of the Code must be reported to the Chief Compliance Officer. All reported potential violations will be investigated, and if appropriate, sanctions will be imposed.

The Code is available to clients upon written request by contacting us at the following address:

Fifth Street Management LLC  
777 West Putnam Avenue, 3rd Floor  
Greenwich, CT 06830  
Attention: Chief Compliance Officer  
Telephone: (203) 681-3600  
Facsimile: (203) 681-3879

Email: dharrison@fifthstreetfinance.com

Please see Items 10 (Other Financial Industry Activities and Affiliations) and 12 (Brokerage Practices).

## **Item 12   BROKERAGE PRACTICES**

**Fifth Street currently does not have any clients; however, upon registration with the SEC and approval of the collateral management agreement with the FSSLF Entities, Fifth Street expects to follow the below Brokerage Practices.**

Fifth Street has the sole power and authority to determine the brokers to be used for purchases of loans by the FSSLF Entities. In selecting brokers or dealers to execute transactions, Fifth Street need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. In selecting brokers, Fifth Street may or may not negotiate “execution only” commission rates; thus, the FSSLF Entities may be deemed to be paying for other services provided by the broker to the FSSLF Entities and/or their respective affiliates which are included in the commission rate. Additionally, Fifth Street will also take into account any clearing and/or other fees charged by the prime broker to execute transactions through other brokers. In negotiating commission rates, Fifth Street will take into account the financial stability and reputation of brokerage firms and the brokerage, research and other services provided by such brokers, although the FSSLF Entities may not, in any particular instance, be the direct or indirect beneficiary of the services provided.

### Research and Other Soft Dollar Benefits

Fifth Street does not anticipate utilizing soft dollar benefits; to the extent that Fifth Street uses soft dollars in the future, such use would fall within the safe harbor of Section 28(e) of the Exchange Act.

Section 28(e) provides a “safe harbor” to investment advisers who use commission dollars generated by their advised accounts to obtain investment research and brokerage services that provide lawful and appropriate assistance to the investment adviser in the performance of investment decision-making responsibilities. Conduct outside of the safe harbor afforded by Section 28(e) is subject to the traditional standards of fiduciary duty under state and federal law.

### Directed Brokerage for Referrals

Fifth Street does not anticipate to directing clients’ brokerage business to brokers who refer investors to FSSLF Entities.

### Trade Aggregation and Allocation

Fifth Street may at times determine that certain securities, commodities or other financial instruments will be suitable for acquisition by the FSSLF Entities and/or by investment funds or vehicles or other accounts managed by Fifth Street and/or its affiliates, possibly including, but not limited to, its own accounts or accounts of affiliates (collectively, “Other Accounts”).

Fifth Street may aggregate purchase and sale orders of securities, commodities and other financial instruments held by the FSSLF Entities and/or such Other Accounts with similar orders being made simultaneously for other accounts or entities if, in Fifth Street's reasonable judgment, such aggregation is reasonably likely to result in an overall economic benefit to the FSSLF Entities and/or such Other Accounts based on an evaluation that the FSSLF Entities and/or such Other Accounts will be benefited by relatively better purchase or sale prices, lower commission expenses or beneficial timing of transactions, or a combination of these and other factors. In many instances, the purchase or sale of securities, commodities and other financial instruments for the FSSLF Entities and/or such Other Accounts will be affected simultaneously with the purchase or sale of like securities, commodities and other financial instruments for other accounts or entities. Such transactions may be made at slightly different prices, due to the volume purchased or sold. In such event, the average price of all securities, commodities or other financial instruments purchased or sold in such transactions may be determined, at Fifth Street's sole and absolute discretion, and the FSSLF Entities and/or such Other Accounts may be charged or credited, as the case may be, with the average transaction price.

None of Fifth Street and its affiliates is under any obligation to devote their full time to the business of the FSSLF Entities and/or such Other Accounts. Fifth Street and its affiliates are only required to devote such time and attention to the affairs of each of the FSSLF Entities and/or such Other Accounts as they deem appropriate. Fifth Street and its affiliates will divide their time among the FSSLF Entities and such Other Accounts as they see fit and, from time to time, such Other Accounts may receive a disproportionate share of their attention.

Fifth Street has adopted an investment allocation policy that governs the allocation of investment opportunities among the investment funds managed by Fifth Street and its affiliates. To the extent an investment opportunity is appropriate for more than one client managed by Fifth Street and/or its affiliates, and co-investment is not possible, Fifth Street will adhere to its investment allocation policy in order to determine to which client to allocate the opportunity. On September 9, 2014, the SEC granted exemptive relief to Fifth Street's affiliates and future affiliates, including Fifth Street, permitting certain joint transactions otherwise prohibited by Section 17(d) and 57(a)(5) of the Investment Company Act of 1930 and Rule 17d-1. The exemptive relief permits Fifth Street to participate in negotiated co-investment transactions, subject to the conditions of the relief granted by the SEC, with certain affiliates, each of whose investment adviser is Fifth Street, or an investment adviser controlling, controlled by or under common control with Fifth Street, in a manner consistent with Fifth Street's investment objective, positions, policies, strategies and restrictions as well as regulatory requirements and other pertinent factors, and pursuant to the conditions of the exemptive relief.

If Fifth Street is unable to rely on Fifth Street's exemptive relief for a particular opportunity, such opportunity will be allocated first to the client whose investment strategy is the most consistent with the opportunity being allocated, and second, if the terms of the opportunity are consistent with more than one client's investment strategy, on an alternating basis. Although Fifth Street's investment professionals will endeavor to allocate investment opportunities in a fair and equitable manner, the FSSLF Entities and/or such Other Accounts could be adversely affected to the extent investment opportunities are allocated among the FSSLF Entities and/or such Other Accounts and other investment vehicles managed or sponsored by, or affiliated with,

Fifth Street.

The policies of Fifth Street and its affiliates are also designed to manage and mitigate the conflicts of interest associated with the allocation of investment opportunities if FSOF and/or the FSSLF Entities are able to co-invest with the Other Accounts, either pursuant to SEC interpretive positions or Fifth Street's exemptive order. Generally, under the investment allocation policy, co-investments will be allocated pursuant to the conditions of the exemptive order. Under the investment allocation policy, a portion of each opportunity that is appropriate for FSOF, a FSSLF Entity and/or an Other Account will be offered to such eligible account generally based on asset class, fund size and liquidity, among other factors. If there is a sufficient amount of securities to satisfy all participants, the securities will be allocated among the participants in accordance with their order size and if there is an insufficient amount of securities to satisfy all participants, the securities will be allocated pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. In accordance with Fifth Street's investment allocation policy, any of the FSSLF Entities and/or an Other Account might not participate in each individual opportunity, but will, on an overall basis, be entitled to participate equitably with other entities managed by Fifth Street and its affiliates. Fifth Street seeks to treat all clients fairly and equitably such that none receive preferential treatment vis-à-vis the others over time, in a manner consistent with its fiduciary duty to each of them; however, in some instances, especially in instances of limited liquidity, the factors may not result in pro rata allocations or may result in situations where certain funds receive allocations where others do not.

Fifth Street and/or any of its affiliates may enter into agency cross transactions on behalf of a client with other accounts and/or other private pooled investment vehicles that are managed by Fifth Street and/or any of its affiliates, to the extent permitted by law; provided, however, that the client receives full written disclosure with respect to any such agency cross transaction in accordance with the Advisers Act. Such agency cross transactions may include, without limitation, transactions undertaken to rebalance the portfolios of the client and/or such other accounts and/or vehicles.

However, Fifth Street will not cause or allow the FSSLF Entities to enter into any contract or transaction with an affiliate or principal of Fifth Street unless such transaction is upon terms no less favorable to the FSSLF Entities, as applicable, than it would obtain in a comparable arm's length transaction with a person or entity which is not an affiliate or principal of the FSSLF Entities or Fifth Street.

Please see Item 10 (Other Financial Industry Activities and Affiliations).

### **Item 13    REVIEW OF ACCOUNTS**

**Fifth Street currently does not have any clients; however, upon registration with the SEC and approval of the collateral management agreement with the FSSLF Entities, Fifth Street expects to follow the below procedures.**

The FSSLF Entities are reviewed and reconciled periodically to assure that the structure and financial instruments held are suitable and consistent with each fund's objectives and strategies.

In addition, Fifth Street personnel also monitor the FSSLF Entities to help ensure conformity with investment objectives and guidelines. Fifth Street engages in active management and frequent transactions for clients and, accordingly, reviews its transactions, positions and cash balances on a regular basis.

Investors in FSSLF Entities are provided with monthly reports and, in those months in which there are payment dates, quarterly payment date reports detailing information about the performance and collateral profile.

#### **Item 14 CLIENT REFERRALS AND OTHER COMPENSATION**

Fifth Street does not anticipate on receiving an economic benefit from a person who is not a client for providing investment advice to a client or investor.

Previously, a Fifth Street affiliate has entered into one or more agreements, and Fifth Street or its affiliates may, in the future, enter into additional agreements with third parties that may introduce prospective investors to the FSSLF Entities. Currently, none of Fifth Street or its affiliates are currently a party to any such agreements. It is expected that such parties will not be related to the operations of the FSSLF Entities and any fee paid will be disclosed to the investors introduced by such third parties. Fifth Street and its affiliates may pay such commissions or fees out of their own funds or directly charge investors that were introduced through such arrangements.

#### **Item 15 CUSTODY**

Fifth Street currently does not have any clients or RAUM, however, Fifth Street does not anticipate having custody of client assets upon registration with the SEC and approval of the collateral management agreement with the FSSLF Entities.

#### **Item 16 INVESTMENT DISCRETION**

Upon approval of Fifth Street's collateral management agreement with the FSSLF Entities, Fifth Street will be afforded discretionary authority to manage the assets of the FSSLF Entities. Fifth Street makes investment decisions on behalf of the FSSLF Entities in accordance with their respective investment objectives. For more information, please see Item 4 (Advisory Business).

#### **Item 17 VOTING CLIENT SECURITIES**

**Currently, Fifth Street does not have any clients or RAUM. In addition, Fifth Street does not anticipate that any of its future clients will invest in securities requiring proxies to be voted. However, in the event Fifth Street is required vote proxies, Fifth Street will follow the below procedures.**

As an investment adviser registered under the Advisers Act, Fifth Street has a fiduciary duty to act solely in the best interests of its clients. As part of this duty, it recognizes that it must vote



client securities in a timely manner free of conflicts of interest and in the best interests of its clients. The proxy voting policies and procedures of Fifth Street are set forth below. These policies and procedures for voting proxies for the investment advisory clients of the Investment Adviser are intended to comply with Section 206 of, and Rule 206(4)-6 under, the Advisers Act.

Fifth Street will vote proxies relating to clients' securities in the best interest of its clients' investors. It will review on a case-by-case basis each proposal submitted for a stockholder vote to determine its impact on the portfolio securities held by its clients. Although Fifth Street will generally vote against proposals that may have a negative impact on its clients' portfolio securities, it may vote for such a proposal if there exists compelling long-term reasons to do so.

The proxy voting decisions of Fifth Street are made by the officers who are responsible for monitoring each of its clients' investments. To ensure that its vote is not the product of a conflict of interest, it will require that: (a) anyone involved in the decision-making process disclose to its Chief Compliance Officer any potential conflict that he or she is aware of and any contact that he or she has had with any interested party regarding a proxy vote; and (b) employees involved in the decision-making process or vote administration are prohibited from revealing how Fifth Street intends to vote on a proposal in order to reduce any attempted influence from interested parties.

Fifth Street's proxy voting policies and proxy voting records may be obtained, without charge, upon a written request to the address below:

Fifth Street CLO Management LLC  
777 West Putnam Avenue, 3rd Floor  
Greenwich, Connecticut 06830  
Attention: Chief Compliance Officer  
Tel: (203) 681-3600  
Fax: (203) 681-3879  
Email: dharrison@fifthstreetfinance.com

#### **Item 18 FINANCIAL INFORMATION**

Fifth Street does not require or solicit prepayment of advisory fees six months or more in advance.

Fifth Street is not aware of any financial condition that is reasonably likely to impair its ability to meet contractual commitments to clients.

Fifth Street has not been the subject of a bankruptcy petition at any time during the past ten years.

#### **Item 19 REQUIREMENTS FOR STATE REGISTERED ADVISERS**

Not applicable.